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**VIA ECF**

Hon. Vernon S. Broderick  
U.S. District Court, S.D.N.Y.  
40 Foley Square, Room 415  
New York, NY 10007

Re: *Cerabona, et al. v. Medlink Services, Inc., et al.*  
Civ. Case No. 19-cv-3119 (VSB)

Dear Judge Broderick:

The parties, by and through their respective counsel, submit this joint letter pursuant to the Court's July 15, 2019 Order and Notice of Initial Conference.

**1. Brief description of nature of the action and principal defenses.**

Plaintiffs Franco P. Cerabona, MD ("Dr. Cerabona") and Andrew Merola, MD ("Dr. Merola") are orthopedic surgeons who perform medical services, including orthopedic surgeries, at hospitals throughout New York City. Plaintiffs retained defendant Medlink Services, Inc. ("Medlink Services") to prepare and submit health insurance claims to insurance companies on plaintiffs' behalf, for medical services that plaintiffs provided to their patients.

In this action, plaintiffs allege that: (i) Medlink Services, Medlink Partners, LLC ("Medlink Partners") and their respective principals, Amrish Patel ("Amrish"), Mala Patel ("Mala"), and Hemanshu Patel ("Hemanshu"), falsified certain of these insurance claim forms to identify Medlink Services or Medlink Partners as the payment recipient, rather than Dr. Cerabona or Dr. Merola; (ii) as a result of defendants' wrongful conduct, the insurance companies paid Medlink Services and Medlink Partners substantial sums of money, rather than plaintiffs, for medical services provided by plaintiffs; and (iii) defendants deposited or cashed insurance company checks for those sums into their own accounts or for their own benefit, which should have been remitted to plaintiffs.

In response to plaintiffs' allegations, (i) the individual defendants Mala and Hemanshu Patel contend that they had no involvement in or knowledge of the allegedly false submissions

made on behalf of Medlink Services and/or Medlink Partners; (ii) all defendants contend that to the extent plaintiffs are owed any money, it is, in fact, far less than what is being claimed herein; and, (iii) based on the claims set forth in the complaint, it appears that at least part of plaintiffs' claims may be time-barred.

**2. Explanation of why jurisdiction and venue lie in this Court.**

This Court has jurisdiction pursuant to 28 U.S.C. § 1332, as this case involves a dispute between citizens of different states and because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs. Plaintiffs both reside in the State of New York. The individual defendants (Amrish, Mala, and Hemanshu Patel) each reside in the State of New Jersey. Medlink Services is incorporated in New Jersey, with its principal place of business in Spotswood, New Jersey. Medlink Partners is a limited liability company, operating out of the same office as Medlink Services in Spotswood, New Jersey, and Amrish and Hemanshu are the members of Medlink Partners.

Venue is properly in this district pursuant to 28 U.S.C. § 1391 because a substantial part of the events or omissions giving rise to the claims occurred in this district, or a substantial part of the property that is the subject of the action is situated in this district.

**3. Contemplated Motions.**

The parties do not contemplate any specific motions in the near future, but expect that dispositive motions will be filed once discovery is complete.

**4. Discovery that has already taken place and/or is necessary for meaningful settlement negotiations.**

In order for the parties to engage in meaningful settlement negotiations, plaintiffs submit that they will need discovery of the health insurance claim forms which defendants submitted to insurers that identified Medlink Services or Medlink Partners as the payment recipient for medical services provided by plaintiffs, and the canceled checks or other forms of payment receipt that demonstrate the insurers' payments to Medlink Services and Medlink Partners. As the insurance companies are not parties to this litigation, plaintiffs will need to serve third-party subpoenas to obtain this information. Prior to filing the Complaint, plaintiffs obtained a limited number of these documents from the insurers, which they will provide to defendants in their Initial Disclosures. In order for the parties to engage in meaningful settlement negotiations, plaintiffs will further need to obtain copies of defendants' bank records, which evidence their receipt of the insurers' payments, as well as documents concerning the issuance of National Provider Identifier numbers to Medlink Services and Medlink Partners, which enabled them to obtain payments from the insurance companies for the medical services rendered by the plaintiffs.

**5. Prior settlement discussions.**

Plaintiffs attempted to resolve this dispute with Medlink Services, Amrish, and Mala prior to filing the Complaint. The parties have not engaged in settlement discussions since plaintiffs filed the Complaint. Plaintiffs maintain that defendants caused to be diverted to themselves over \$2,000,000 which should have been paid to plaintiffs. Defendants have denied these allegations. Thus, settlement is unlikely at this stage of the litigation.

**6. Estimated length of trial.**

The parties estimate that trial will take two to three weeks.

**7. Other information.**

There will be a substantial amount of HIPAA protected health information presented in this case. The parties are preparing a proposed stipulated protective order to address the use of such information.

Respectfully submitted,

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ANDREW MEROLA, MD**



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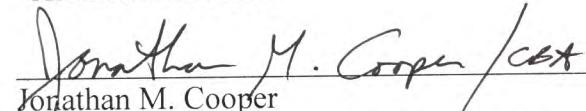
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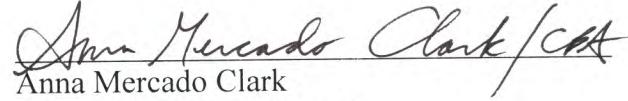
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